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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,539	03/16/2004	Andrew Longacre JR.	703-006.50.21	3512
20874	7590	04/21/2005	EXAMINER	
WALL MARJAMA & BILINSKI 101 SOUTH SALINA STREET SUITE 400 SYRACUSE, NY 13202			LE, THIEN MINH	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,539

Applicant(s)

LONGACRE ET AL.

Examiner

Thien M. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/30/2004; 3/18/2004; 3/11/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The preliminary amendments filed on 3/11/2004, 3/18/2004 and 8/30/2004 have been entered. The information disclosure statement filed on 4/12/2004 has been entered. Claims 8-21 have been canceled. Claims 1-7 remain for examination.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4 and 6-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Wilz, Sr. et al. (Wilz, Sr. et al. – 6,565,005; herein after referred as Wilz).

Regarding claim 1, Wilz discloses "a novel system and method for programming one or more functional parameters of programmable bar code symbol readers and scanners, while avoiding the need to connect a data communication port of a computer system to a bar code symbol reader that is to be programmed. In a first illustrative embodiment, the function-encoded parameters of a master bar code symbol reader are determined using a computer-based-function-parameter device and subsequently buffered in memory buffer contained therein; the buffered function-encoded parameters are used to produce a list of function-encoded bar code symbols which are printed in a specified reading sequence; and the list of printed-function encoded bar code symbols are read in the specified reading sequence so as to configure the bar code symbol reader with the same set of function-encoded parameters that were programmed in the master bar code symbol reader. In a second illustrative embodiment, the function-encoded parameters of a master bar code symbol reader are determined using a computer based-function-parameter acquisition device and buffered in a memory buffer contained therein; the buffered function-encoded parameters are used to produce a list of symbol reading instructions, each referencing a specific function encoded bar code symbol on a particular page of a preprinted bar code symbol programming guide, and the list of symbol reading instructions are used to read in a specified order."

According to Wilz, "after a "master" or model bar code symbol reader is configured (i.e., programmed) to the satisfaction of productivity experts and application

engineers, it is then desirable to duplicate (i.e., clone) the "master" bar code symbol reader a number of times. Oftentimes, the "cloned" bar code symbol readers are either situated at, or are to be used, at remote locations far away from the master bar code symbol reader. This is the case for a network of bar code symbol readers being used throughout a chain of retail department stores. By programming such bar code symbol readers in the same way, the store managers have a high degree of certainty that each configured bar code symbol reader will function substantially the same way, and thus ensure that a predictable level of scanner performance in a given working environment."

Figure 9 of Wilz shows "a perspective view of the programmable bar code symbol reader of FIG. 1 operably connected to the function parameter acquisition system of the present invention, showing the function parameter reading system reading (i.e., acquiring) the "master" set of function parameters stored in the programmable bar code symbol reader and converting such function parameters directly into a printable list of function-encoded bar code symbols uniquely corresponding thereto, which when read in sequential order by another programmable bar code symbol reader, automatically programs the programmable bar code symbol reader with the master set of function parameters."

Figure 13 of Wilz shows "a perspective view of a programmable bar code symbol reader of FIG. 1 operably connected to the function parameter reading system of the present invention, showing the function reading computer system reading (i.e., acquiring) the master set of function parameters stored in the programmable bar

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code symbol reader and converting such function parameters into a function-parameter programming file transmittable to a remotely situated computer system for printing out a master list of function-encoded bar code symbols uniquely corresponding thereto, and when read in sequential order by another programmable bar code symbol reader, automatically programs the bar code symbol reader with the master set of function parameters.”

As can be seen, Wilz discloses a bar code reader cloning system using a host computer, a first “Master” bar code reader, a second “Clone” bar code reader, a printer for printing the programmed parameters into bar codes; and method of cloning reader at an on site location (figure 9) or at a remote location (figure 13). Thus, Wilz discloses the claimed invention.

Regarding claim 2, figures 9 and 13 shows that the hand held readers are not integral parts of the computer.

Regarding claims 3-4, see figures 9 and 13. Also see the discussions above regarding claim 1.

Regarding claims 6-7, see figures 9 and 13. Also see the discussions above regarding claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilz, Sr. et al. (Wilz, Sr. et al. – 6,565,005; herein after referred as Wilz).

Regarding claim 5, see the discussions regarding claim 1. The claim differs in calling for the use of a 2D bar code in place of a 1D bar codes. It would have been obvious to replace the 1D bar codes as taught by Wilz with a single 2D bar code. The modification is merely substitute the 1D bar codes as taught by Wilz with their art recognized equivalent. This is because a 2D bar code is known to store much more

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information than a 1D bar code and thus would motive an ordinary skilled artisan to encode the information stored in the 1D bar codes into a single 2D bar code. The modification allows the operator to transfer all program parameters from the "Master" reader to the "Clone" reader by scanning one single 2D bar code.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thien M. Le whose telephone number is (571) 272-2396. The examiner can normally be reached on Monday - Friday from 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Le, Thien Minh', with a stylized, cursive script.

Le, Thien Minh
Primary Examiner
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April 18, 2005